

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:14-CV-217-BO**

VARIETY STORES, INC.,

Plaintiff,

v.

WALMART INC.,

Defendant.

---

**WALMART INC.'S PROPOSED VOIR DIRE QUESTIONS**

Pursuant to Local Rule 47.1(b), Defendant Walmart Inc. (“Walmart”) requests that, in addition to the Court asking certain “routine questions such as (1) the occupations and addresses of jurors and their spouses, (2) the identity and relation of jurors, the parties, counsel, and witnesses, and (3) the knowledge of the jurors concerning the case,” it also ask the following voir dire questions.

**I. AGE AND EDUCATION**

1. How old are you?
2. Have you completed a high school diploma or a GED?
3. Have you completed an associates’ degree or a certificate degree program?
  - a. If yes, what was your degree in?
4. Have you completed a bachelor’s degree?
  - a. If yes, what was your degree in?
5. Have you completed a graduate degree?
  - a. If yes, what was your degree in?

**II. CONCEPTS AT ISSUE IN THIS CASE**

1. Do you think that we are here in court because one of the parties in this case must have done something wrong? If yes, please explain.
2. Are you familiar with what a trademark is?
3. Do you own or have you ever owned a trademark?
  - a. If yes, have you ever accused someone of using your trademark without your permission?
  - b. Has anyone ever accused you of using their trademark without their permission?
4. Do you believe it can ever be acceptable for two companies to use the same name for their products?
5. Do you believe it can ever be acceptable for two companies to use similar names for their products?

### **III. EXPERIENCE WITH WALMART**

1. Have you or any of your family members ever worked for Walmart?
2. Do you or your family members regularly shop at Walmart?
3. Do you have a negative opinion of Walmart?
4. Have you ever purchased brands available only at Walmart?
5. Have you ever purchased a grill or grill accessories at Walmart?
  - a. Do you recall what brand?
  - b. What was your experience with those products?
6. Have you or any of your family members ever been involved in any disputes or lawsuits with Walmart?

### **IV. EXPERIENCE WITH VARIETY AND/OR ANY STORES OWNED BY VARIETY**

1. Have you or any of your family members ever worked for Variety, or any of the stores owned by Variety, including Roses, Maxway, Super 10, Super Dollar, Bill's Dollar Stores, or Bargain Town?
2. Do you or your family members regularly shop at any of the stores owned by Variety, including Roses, Maxway, Super 10, Super Dollar, Bill's Dollar Stores, or Bargain Town?
3. Do you have a negative opinion of Variety, or any of the stores owned by Variety, including Roses, Maxway, Super 10, Super Dollar, Bill's Dollar Stores, or Bargain Town?
4. Have you ever purchased brands available only at any of the stores owned by Variety, including Roses, Maxway, Super 10, Super Dollar, Bill's Dollar Stores, or Bargain Town?
5. Have you ever purchased a grill or grill accessories at any of the stores owned by Variety, including Roses, Maxway, Super 10, Super Dollar, Bill's Dollar Stores, or Bargain Town?
  - a. Do you recall what brand?
  - b. What was your experience with those products?
6. Have you or any of your family members ever been involved in any disputes or lawsuits with Variety, or any of the stores owned by Variety, including Roses, Maxway, Super 10, Super Dollar, Bill's Dollar Stores, or Bargain Town?

**V. EXPERIENCE IN LEGAL PROCEEDINGS**

1. Have you ever been involved in a civil or criminal proceeding?
  - a. What was the nature of that proceeding?
  - b. Were you treated fairly in that proceeding?
  - c. If not, why do you think you were not treated fairly?
  - d. Is there anything about that experience that would make it difficult for you to be fair or impartial in this case?
2. If you were previously involved in a civil case, were you the plaintiff or defendant?
  - a. What was the proceeding about?
  - b. What was the result of the case?
  - c. Were you satisfied with the process?
  - d. If not, why not?
3. Have you ever been a witness in a case?
  - a. What was the case about?
  - b. What was your role in the case?
4. [For those indicating previous jury service]: Without describing the outcome, what was your experience in the case where you served as a juror?
  - a. Was the case a civil or criminal case?
  - b. Were you satisfied with your experience with the legal system as a juror?
  - c. Did you serve as the foreperson?

**VI. ROLE AS JUROR**

1. Are you comfortable being asked to evaluate the credibility of witnesses?
2. Do you have any concerns about having to decide whether a person is telling you the truth or not?
3. Do you have any feeling coming into this case that one side or the other should be entitled to win?

4. Do you have any concerns about waiting until you have heard all the evidence from both sides before deciding which side is right and which side is wrong?

**VII. EXPERIENCE WITH SOCIAL MEDIA**

1. How often, if ever, do you post to social media (Facebook, Instagram, Twitter, Pinterest, etc.)?
2. Can you promise not to use social media to discuss or post any information online relating to your jury service or this trial?
3. Can you promise that you will not conduct any independent research on the topics, witnesses, or evidence presented during this trial?

Respectfully submitted,

Dated: October 15, 2018

/s/Mark S. Puzella

---

Mark S. Puzella (admitted pro hac vice)  
R. David Hosp (admitted pro hac vice)  
Sheryl K. Garko (admitted pro hac vice)  
FISH & RICHARDSON, P.C.  
One Marina Park Drive  
Boston, Massachusetts 02210  
Telephone: 617-521-7043  
Facsimile: 617-542-8906  
E-mail: puzella@fr.com  
hosp@fr.com  
garko@fr.com

Elizabeth E. Brenckman (admitted pro hac vice)  
FISH & RICHARDSON, P.C.  
601 Lexington Avenue, 52nd Flr.  
New York, New York 10022  
Telephone: 212-641-2305  
Facsimile: 212-258-2291  
E-mail: brenckman@fr.com

William W. Wilkins (SC Bar No. 6112)  
Kirsten E. Small (NC Bar No. 37057)  
NEXSEN PRUET  
55 E. Camperdown Way  
Suite 400  
Greenville, South Carolina 29601  
Telephone: 864-370-2211  
Facsimile: 864-282-1177  
E-mail: bwilkins@nexsenpruet.com  
ksmall@nexsenpruet.com

***Attorneys for Defendant Walmart Inc.***

**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

This the 15<sup>th</sup> day of October, 2018.

/s/Mark S. Puzella

Mark S. Puzella